

1 BILL NO. R-97-12-13

RESOLUTION NO. 89-97

2 A RESOLUTION APPROVING A GRANT OF  
3 EASEMENT TO JEFFERSON SMURFIT  
4 CORPORATION

5 WHEREAS, an ordinance is pending before City Council to vacate the Clair  
6 Street right-of-way, as the right-of-way will soon be rendered useless by the  
7 construction of Phase IV of Headwaters Park; said Clair Street right-of-way is  
8 depicted and described in Exhibit A; and

9  
10 WHEREAS, Allen County and the Jefferson Smurfit Corporation own real estate  
11 adjacent to Clair Street and have signed quit claim deeds conveying their interest in  
12 the right-of-way to the Board of Works; and

13 WHEREAS, Jefferson Smurfit Corporation requires an easement to replace the  
14 Clair Street right-of-way and afford them access to their truck docks and waste bin  
15 located off Harrison Street; said easement is depicted and described in Exhibit B;  
16 the easement agreement is attached as Exhibit C; and

17  
18 WHEREAS, on October 8, 1997, the Board of Works, the owner of all real estate  
19 and rights-of-way in Headwaters Park, adopted a resolution approving the granting  
20 of an easement to Jefferson Smurfit Corporation and forwarding the matter to City  
21 Council for its final approval; said resolution is attached as Exhibit D.

22  
23 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF  
24 THE CITY OF FORT WAYNE, INDIANA:

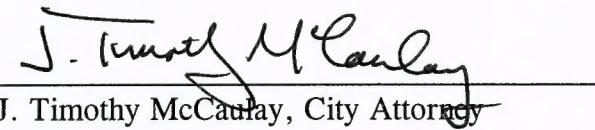
25 SECTION 1. The Resolution of the Fort Wayne Board of Public Works  
26 approving the granting of an easement to Jefferson Smurfit Corporation is hereby  
27  
28  
29  
30

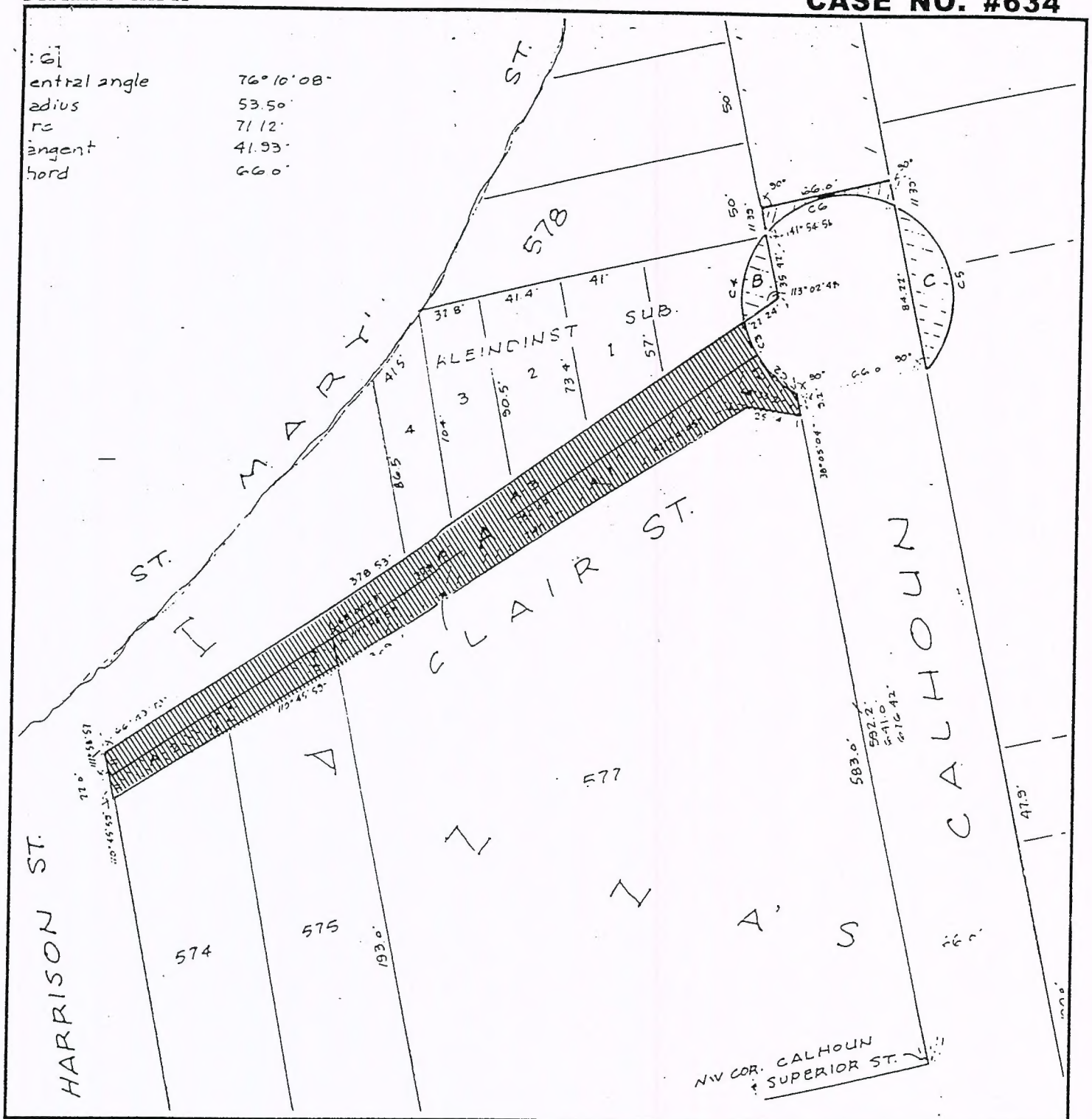
1 approved, ratified, and confirmed.

2 SECTION 2. This Resolution shall be in full force and effect from and after  
3 its passage and approval by the Mayor.

4   
5 Council Member  
6

7 APPROVED AS TO FORM AND LEGALITY  
8

9  
10   
11 J. Timothy McCauley, City Attorney  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30



## COUNCILMANIC DISTRICT NO. 5

Map No. M-10  
LW 7-21-97



**ANDERSON SURVEYING, INC.**

1324 Henry Avenue  
Fort Wayne, Indiana 46808  
Phone: (219) 483-1724  
Fax: (219) 482-6855

**ANDERSON SURVEYING, INC.**

1947 E. Schug Road  
Columbia City, Indiana 46725  
Phone: (219) 691-3425  
Fax: (219) 691-3425

**VACATION OF CLAIR STREET BETWEEN CALHOUN STREET AND HARRISON STREET - PARCEL "A"**

Commencing at the northwesterly corner of Calhoun Street and Superior Street; thence northwesterly, along the westerly right-of-way line of Calhoun Street, a distance of 583.00 feet to the point of intersection of the southerly right-of-way line of Clair Street with the westerly right-of-way line of Calhoun Street and being the point of beginning for this description; thence northwesterly by a deflection angle to the left of 68 degrees 33 minutes 21 seconds, along the southerly right-of-way line of Clair Street, a distance of 25.14 feet; thence southwesterly by a deflection angle to the left of 42 degrees 04 minutes 45 seconds, along the southerly right-of-way line of Clair Street, a distance of 369.11 feet to the easterly right-of-way line of Harrison Street; thence northwesterly by a deflection angle to the right of 110 degrees 45 minutes 59 seconds, along the easterly right-of-way line of Harrison Street, a distance of 22.00 feet to the northerly right-of-way line of Clair Street; thence northeasterly by a deflection angle to the right of 66 degrees 49 minutes 19 seconds, along the northerly right-of-way line of Clair Street, a distance of 378.53 feet; thence southeasterly by a deflection angle to the right of 86 degrees 00 minutes 39 seconds, along a chord of a regular curve to the left, having a radius of 53.50 feet, a chord distance of 45.02, a length of 46.46 feet and a central angle of 49 degree 45 minutes 35 seconds, to the westerly right-of-way line of Calhoun Street; thence southeasterly, along the westerly right-of-way line of Calhoun Street, a distance of 9.20 feet to point of beginning for this description.

Described this 27th day of June, 1997.

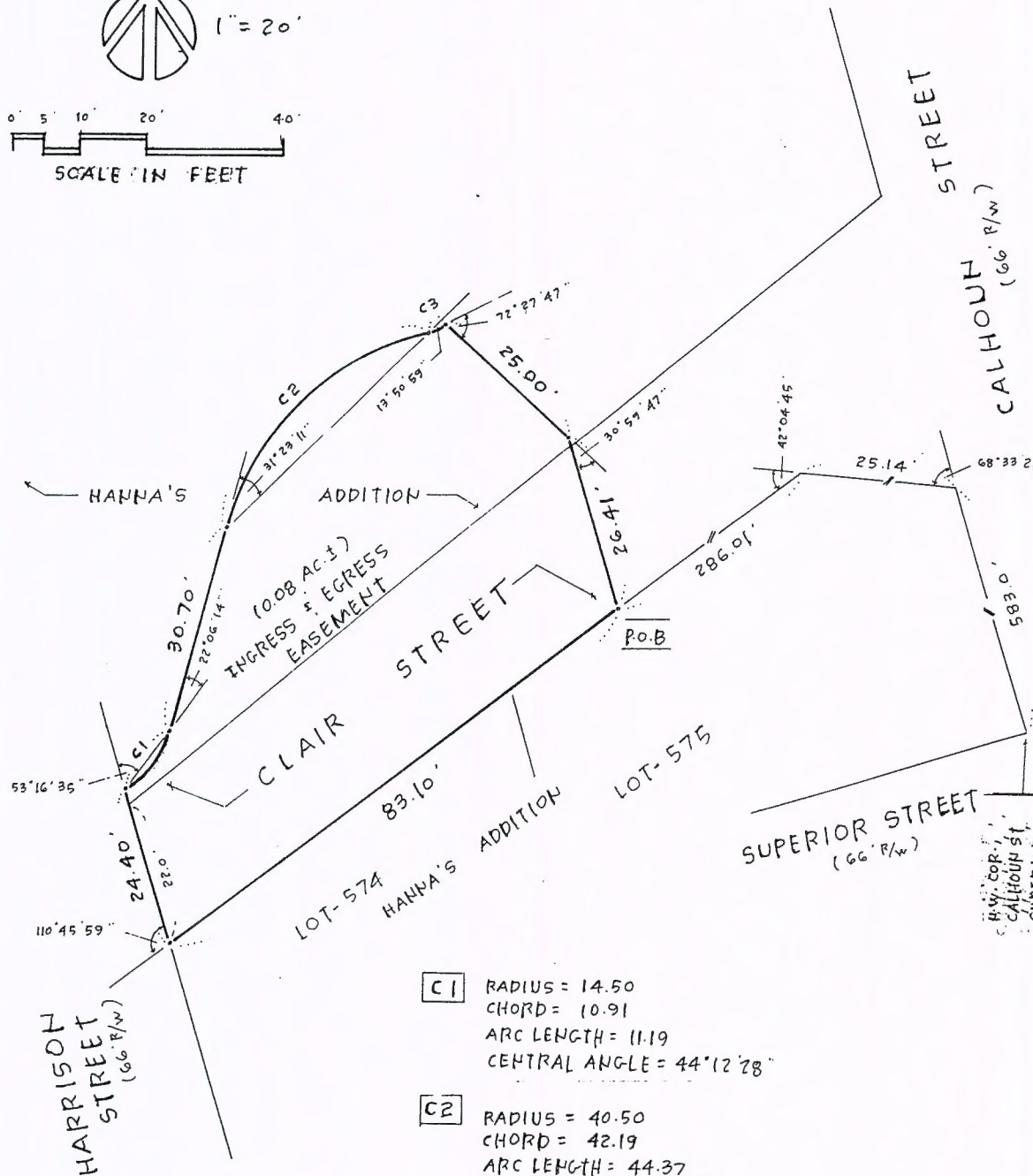
Surveyed for: Fort Wayne Redevelopment Commission

Survey Number: 97-02-170 A

## EXHIBIT B1

REGISTERED PROFESSIONAL ENGINEER (IN REG. NO. 17718)  
REGISTERED LAND SURVEYOR (IN REG. NO. S0402)

Phone: (219) 483-1724  
Fax: (219) 482-6855



- C1
- RADIUS = 14.50  
CHORD = 10.91  
ARC LENGTH = 11.19  
CENTRAL ANGLE =  $44^{\circ}12'28''$
- C2
- RADIUS = 40.50  
CHORD = 42.19  
ARC LENGTH = 44.37  
CENTRAL ANGLE =  $62^{\circ}46'23''$
- C3
- RADIUS = 4.50  
CHORD = 2.71  
ARC LENGTH = 2.75  
CENTRAL ANGLE =  $35^{\circ}04'25''$



**ANDERSON SURVEYING, INC.**

1324 Henry Avenue  
 Fort Wayne, Indiana 46808  
 Phone: (219) 483-1724  
 Fax: (219) 482-6855

**ANDERSON SURVEYING, INC.**

1947 E. Schug Road  
 Columbia City, Indiana 46725  
 Phone: (219) 691-3425  
 Fax: (219) 691-3425

**INGRESS AND EGRESS EASEMENT FOR JEFFERSON SMURFIT CO. :**

Commencing at the northwesterly corner of Calhoun Street and Superior Street; thence northwesterly, along the westerly right-of-way line of Calhoun Street, a distance of 583.00 feet to the point of intersection of the southerly right-of-way line of Clair Street with the westerly right-of-way line of Calhoun Street; thence northwesterly by a deflection angle to the left of 68 degrees 33 minutes 21 seconds, along the southerly right-of-way line of Clair Street, a distance of 25.14 feet; thence southwesterly by a deflection angle to the left of 42 degrees 04 minutes 45 seconds, along the southerly right-of-way line of Clair Street, a distance of 286.01 feet to the point of beginning for this description; thence continuing southwesterly, along the last described course and being the southerly right-of-way line of Clair Street, a distance of 83.10 feet to the easterly right-of-way line of Harrison Street; thence northwesterly by a deflection angle to the right of 110 degrees 45 minutes 59 seconds, along the easterly right-of-way line of Harrison Street and northwesterly projection of said right-of-way line, a distance of 24.40 feet to a point on a regular curve to the left; thence northeasterly by a deflection angle to the right of 53 degrees 16 minutes 35 seconds, along the chord of said regular curve to the left, having a radius of 14.50, a chord distance of 10.91 feet, a length of 11.19 feet and a central angle of 44 degrees 12 minutes 28 seconds to the point of tangency; thence northeasterly by a deflection angle to the left of 22 degrees 06 minutes 14 seconds a distance of 30.70 feet to the point of curvature of a regular curve to the right; thence northeasterly by a deflection angle to the right of 31 degrees 23 minutes 11 seconds, along the chord of said regular curve to the right, having a radius of 40.50, a chord distance of 42.19 feet, a length of 44.37 feet and a central angle of 62 degrees 46 minutes 23 seconds to the point of reverse curvature; thence northeasterly by a deflection angle to the right of 13 degrees 50 minutes 59 seconds, along the chord of a regular curve to the left, having a radius of 4.50, a chord distance of 2.71 feet, a length of 2.75 feet and a central angle of 35 degrees 04 minutes 25 seconds; thence southeasterly by a deflection angle to the right of 72 degrees 27 minutes 47 seconds a distance of 25.00 feet; thence southeasterly by a deflection angle to the right of 30 degrees 59 minutes 47 seconds a distance of 26.41 feet to the point of beginning for this description, containing 0.08 acres of land, more or less.

Described this 22nd day of August, 1997.

Surveyed for: Fort Wayne Redevelopment Commission

Survey Number: 97-08-187

GRANT OF EASEMENT FOR VEHICULAR ACCESS

This Grant of Easement made and entered into this \_\_\_\_ day of \_\_\_\_\_, 1997, by and between Jefferson Smurfit Corporation (U.S.), (hereinafter referred to as "Grantee"), and the City of Fort Wayne, Indiana, (hereinafter referred to as "Grantor");

1. WHEREAS, Grantor and the Headwaters Park Commission have been developing Headwaters Park, a thirty-acre downtown park located along the banks of the St. Mary's River; and

2. WHEREAS, the design for Phase IV of Headwaters Park includes construction of a parking lot ("Parking Lot") on and along the Clair Street right-of-way and calls for the vacation of Clair Street, and

3. WHEREAS, Grantee is the owner of real property adjacent to Clair Street, and upon the vacation of said street, is entitled to ownership of the right-of-way from centerline that fronts on its real estate; and

4. WHEREAS, Grantee has agreed to convey to Grantor its interest in that portion of the Clair Street right-of-way to which it is entitled by virtue of the vacation; and

5. WHEREAS, the operation of Grantee's business requires vehicular access to a truck dock, rear access doors, and waste receptacle (hereinafter referred to as "Facilities"), accessible only from Clair Street; and

6. WHEREAS, the vacation of Clair Street and Grantee's conveyance of its portion of the vacated right-of-way to Grantor will necessitate the creation of an easement for the benefit of Grantee.

NOW THEREFORE IN CONSIDERATION of the foregoing recitals and the considerations hereinafter contained:

1. Grantor hereby grants to Grantee a non-exclusive easement across Grantor's real estate. Said easement shall be over and across a driveway accessible from Harrison Street, consists of a portion of the former Clair Street right-of-way and a portion of Lot 578 of Hanna's Addition to the City of Fort Wayne, and is described in particular in Exhibit A attached hereto and incorporated herein as fully set forth.

2. This easement is for the benefit of Grantee, owner of the dominant parcel, described as Lot 574 and Lot 575 of Samuel Hanna's Addition to the City of Fort Wayne. Grantee requires said easement for the purposes of gaining vehicular access to its Facilities. The easement shall be maintained by Grantor at Grantor's expense.

3. As consideration for the granting of said easement, Grantee hereby promises and agrees to indemnify, save, and hold harmless Grantor, its heirs, successors, and assigns, jointly and severally, of and from any and all claims of every kind and nature whatsoever which may arise



in the future in relation to the granting of this easement, except for claims arising from actions of Grantor, its agents or employees, such obligation to indemnify, save, and hold harmless to also include the payment of court costs and attorney's fees.

4. Should Grantor need to disturb Grantee's use of the easement for any purpose, it shall give reasonable notice to Grantee prior to disturbing the easement, indicating the nature of disturbance and the estimated duration thereof. At any time Grantor disturbs the easement, Grantor shall at its cost fully restore the easement to its original condition. This easement shall be non-exclusive, and shall be in effect so long as said easement is used by Grantee for the purposes herein stated. In the event said easement ceases to be used for said purposes, this easement shall cease and revert to the Grantor or its successor in ownership.

5. The easement shall be binding upon and inure to the benefit of Grantor and Grantee and their respective successors and assigns.

IN WITNESS WHEREOF, Grantors have executed this Grant of Easement on the date set forth next to Grantor's signatures.

CITY OF FORT WAYNE

\_\_\_\_\_  
Paul Helmke, Mayor

ATTEST: \_\_\_\_\_  
Sandra E. Kennedy, Clerk

STATE OF INDIANA       )  
                                  )  
COUNTY OF ALLEN       )       SS:

Before me \_\_\_\_\_ (printed name of Notary), a Notary Public in and for said County and State, this \_\_\_\_\_ day of \_\_\_\_\_, 1997, personally appeared the above-named Paul Helmke, and acknowledged the execution of the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this day and year above written.

\_\_\_\_\_  
Signature of Notary Public

My Commission expires: \_\_\_\_\_

I am a resident of \_\_\_\_\_ County



STATE OF INDIANA       )  
                                  )  
COUNTY OF ALLEN       )       SS:

Before me \_\_\_\_\_ (printed name of Notary), a Notary Public in  
and for said County and State, this \_\_\_\_\_ day of \_\_\_\_\_, 1997, personally appeared  
the above-named Sandra E. Kennedy, and acknowledged the execution of the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this day and year  
above written.

\_\_\_\_\_  
Signature of Notary Public

My Commission expires: \_\_\_\_\_

I am a resident of \_\_\_\_\_ County

This instrument was prepared by R. David Boyer, Attorney at Law, I.D. Number 2885-02.

## FORT WAYNE BOARD OF PUBLIC WORKS

RESOLUTION NUMBER 84-161-6

## RESOLUTION APPROVING THE GRANTING OF PERMANENT AND TEMPORARY EASEMENTS TO VARIOUS PRIVATE UTILITIES DUE TO THE VACATION OF CERTAIN RIGHTS-OF-WAY IN HEADWATERS PARK

WHEREAS, the Fort Wayne Board of Public Works has acquired certain lands in the City of Fort Wayne for the purpose of flood control and the use of parts thereof for a public park known as Headwaters Park; and

WHEREAS, the Board of Public Works is the purchasing agent pursuant to I.C. 36-1-1.5-3 for the purpose of effecting such acquisition; and

WHEREAS, the Board of Public Works has employed the Fort Wayne Redevelopment Commission as its agent in the negotiation for and purchase of such real estate, relocation, environmental remediation, demolition, and other functions in aid of acquisition and site preparation; and

WHEREAS, construction of Headwaters Park has rendered useless portions of the Calhoun Street and Barr Street right-of-way, and all of the Clair Street, Duck Street, and alley right-of-way from Clinton Street to Barr Street between Superior Street and Duck Street, which rights-of-way are more particularly described in Exhibit A attached hereto and incorporated by reference herein; and

WHEREAS, Redevelopment Commission has petitioned on behalf of the Board of Works for the vacation of the above-named rights-of-way; and

WHEREAS, through the normal vacation process, public and private utilities were notified of the proposed vacation, and certain private utilities have responded, saying that they require easements to maintain existing underground facilities, to wit:

Indiana Michigan Power	Permanent Easement	Barr Street Right-of-Way
Indiana Michigan Power	Temporary Easement	Clair Street Right-of-Way
GTE	Permanent Easement	Alley Right-of-Way
NIPSCO	Permanent Easement	Barr Street Right-of-Way

WHEREAS, Redevelopment Commission staff recommends that the Board of Works grant to the respective utilities easements having legal descriptions matching those of the proposed right-of-way vacations; and

WHEREAS, the grant of easement documents have been prepared by the Board of Works' legal counsel and are attached hereto as Exhibit B.

NOW, THEREFORE, BE IT RESOLVED by the Fort Wayne Board of Public Works that:

1. The Board of Works hereby approves the conveyance of the herein-described easements to the respective private utilities.
2. The grant of easement documents are hereby approved and referred to the Fort Wayne Common Council for approval and signature by the Mayor and City Clerk.

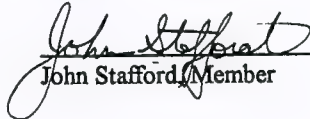


Resolved this 8 day of October, 1997.

FORT WAYNE BOARD OF PUBLIC WORKS

  
Linda Buskirk, Director

  
C. James Owen, Member

  
John Stafford, Member

ATTEST:   
Patricia J. Crick, Clerk

**DIGEST SHEET**

**TITLE OF ORDINANCE** JEFFERSON SMURFIT CORPORATION EASEMENT

**DEPARTMENT REQUESTING ORDINANCE** REDEVELOPMENT

**SYNOPSIS OF ORDINANCE** GRANTS AN EASEMENT TO JEFFERSON SMURFIT CORPORATION FOR TRUCK ACCESS OFF HARRISON STREET TO THEIR SUPERIOR STREET FACILITY. THE EASEMENT IS NECESSARY DUE TO THE PENDING VACATION OF CLAIR STREET. IN RETURN FOR THE EASEMENT, JEFFERSON SMURFIT CORPORATION HAS CONVEYED ITS INTEREST IN THE CLAIR STREET RIGHT OF WAY TO THE BOARD OF WORKS.

\_\_\_\_\_

\_\_\_\_\_

**EFFECT OF PASSAGE** EASEMENT IS GRANTED UPON SIGNATURE BY MAYOR AND CITY CLERK

**EFFECT OF NON-PASSAGE** EASEMENT CANNOT BE GRANTED. VACATION OF CLAIR STREET CANNOT BE FINALIZED

**MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS)** SAVE COST OF ACQUIRING JEFFERSON SMURFIT CORPORATION'S INTEREST IN THE CLAIR STREET RIGHT OF WAY.

**ASSIGNED TO COMMITTEE (PRESIDENT)** \_\_\_\_\_

\_\_\_\_\_





# FORT WAYNE REDEVELOPMENT COMMISSION

---

**TO:** Members of the Fort Wayne Common Council

**FROM:** Ronald R. Fletcher, Executive Director, Fort Wayne Redevelopment Commission

**DATE:** December 5, 1997

**SUBJECT:** Grant of Easement to Jefferson Smurfit Corporation

## **BACKGROUND**

An ordinance is pending before City Council to vacate the Clair Street right-of-way. The right-of-way will soon be rendered useless by construction of Phase IV of Headwaters Park. Allen County and Jefferson Smurfit Corporation own real estate adjacent to Clair Street and have signed quit claim deeds conveying their interest in the right-of-way to the Board of Works. Jefferson Smurfit Corporation requires an easement to replace the Clair Street right-of-way and afford them access to their truck docks and waste bin located off Harrison Street. On October 8, 1997, the Board of Works, the owner of all real estate and rights-of-way in Headwaters Park, approved the action and forwarded the matter to City Council for its final approval.

## **HIGHLIGHTS OF THE PROPOSED ORDINANCE**

The proposed resolution approves granting an easement to Jefferson Smurfit Corporation across the Clair Street right-of-way.

## **RECOMMENDATION**

I recommend that Council adopt the attached resolution. Approval will allow the vacation of the Clair Street right-of-way to be finalized.

Read the first time in full and on motion by Perine,  
and duly adopted, read the second time by title and referred to the Committee on  
Legislation (and the City Plan Commission for recommendation)  
and Public Hearing to be held after due legal notice, at the Common Council Conference  
Room 128, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_,  
the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at  
o'clock \_\_\_\_\_ M., E.S.T.

DATED: 12-9-97

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Perine,  
and duly adopted, placed on its passage. PASSED  
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>8</u>			<u>1</u>
BENDER	<u>✓</u>			
CRAWFORD	<u>✓</u>			
EDMONDS				<u>✓</u>
HALL	<u>✓</u>			
HAYHURST	<u>✓</u>			
HENRY	<u>✓</u>			
LUNSEY	<u>✓</u>			
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			

DATED: 12-16-97

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana,  
as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL)

(ZONING) ORDINANCE RESOLUTION NO. R-89-97  
on the 16<sup>th</sup> day of December, 1997

ATTEST: Sandra E. Kennedy SEAL  
SANDRA E. KENNEDY, CITY CLERK Thomas E. Helms  
PRESIDENT OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the  
17<sup>th</sup> day of December, 1997  
at the hour of 3:00 o'clock P, M., E.S.T.

Approved and signed by me this 22<sup>nd</sup> day  
of December, 1997, at the hour of 3:00  
o'clock P M., E.S.T.

Paul Helmke  
PAUL HELMKE, MAYOR



BILL NO. R-97-12-13

REPORT OF THE COMMITTEE ON REGULATIONS

REBECCA J. RAVINE - THOMAS E. HAYHURST - CO-CHAIR  
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS  
REFERRED AN ~~(ORDINANCE)~~ (RESOLUTION) approving a grant of  
easement to Jefferson Smurfit Corporation

HAVE HAD SAID ~~(ORDINANCE)~~ (RESOLUTION) UNDER CONSIDERATION  
AND ~~BEG LEAVE~~ TO REPORT BACK TO THE COMMON COUNCIL THAT SAID  
(ORDINANCE) (RESOLUTION)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

<u>Rebecca Ravine</u>	_____	_____	_____
<u>John D. Gump</u>	_____	_____	_____
<u>Dickie Hall</u>	_____	_____	_____
<u>DS</u>	_____	_____	_____
<u>Thomas E. Hayhurst</u>	_____	_____	_____
<u>Martin A. B...</u>	_____	_____	_____
<u>Christie L...</u>	_____	_____	_____
<u>...</u>	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

DATED:

Sandra E. Kennedy  
City Clerk